

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

ANDREA FRANKIEWICZ and RUTH PEREZ,
Individually and on Behalf of a Class of Similarly
Situated Individuals,

Plaintiffs,

v.

MANHATTAN CRYOBANK, INC., and
CNTP MCB, INC.,

Defendants.

CASE NO. 1:20-cv-5157

**ORDER GRANTING
PLAINTIFFS' LEAVE TO TAKE
DISCOVERY PRIOR TO ENTRY
OF FINAL JUDGMENT**

Plaintiffs' Motion for Leave to Take Discovery Prior to Entry of Final Judgment, which was part of Plaintiffs' Motion for Class Certification, came on regularly for consideration by the above referenced Court, having considered the moving papers, supporting exhibits, the applicable authorities, and the lack of opposition, this Court finds and orders as follows:

Plaintiffs' requests leave to take discovery to (1) identify recipients of sperm purchased from MCB that was donated prior to November 1, 2014, and (2) to determine the total number of vials of sperm each Class member received so that the refund damages can be determined on a Classwide and per Class member basis prior to entry to final judgment.

Pursuant to Federal Rule 55(d)(2): "The court may conduct hearings or make referrals—preserving any federal statutory right to a jury trial—when, to enter or effectuate judgment, it needs to: (A) conduct an accounting; (B) determine the amount of damages; (C) establish the truth of any allegation by evidence; or (D) investigate any other matter."

In this case, the Court has conditionally certified a Class after Defendants' defaults, and finds that discovery is necessary to (1) identify recipients of sperm purchased from Defendants

that was donated prior to November 1, 2014, that are members of the conditionally certified Class to effectuate class notice, and, if so, (2) to determine the total number of vials of sperm each Class member received so that the refund damages of \$450 per vial can be determined on a classwide and per Class member basis prior to entry to final judgment.

The Court therefore GRANTS Plaintiff's motion for discovery and authorizes Plaintiffs to take discovery as needed to obtain sales information identifying sales of sperm to Class members.

The Clerk of Court is directed to terminate the motion at Docket No. 26

IT IS HEREBY ORDERED.

DATED: June 22, 2021



J. PAUL OETKEN
United States District Judge